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IN THE

Supreme Court of the United States

October Term, 1958.

No. 177.

HARRY J. ALKER, JR.,

Petitioner.

v.

ESTATE OF GEORGE W. RENSTCHLER, Deceased.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI.

FRANK F. TRUSCOTT,
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Counsel for Petitioner.

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ESTATE OF GEORGE W. RENTSCHLER, DECEASED.

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Petitioner prays that this Court grant a rehearing of its Order of October 13, 1958, denying the petition for writ of certiorari, and that a writ of certiorari issue to review the judgment of the Supreme Court of Pennsylvania in the above entitled case as prayed for in the petition filed July 15, 1958, herein.

REASONS FOR GRANTING A REHEARING AND ISSUING THE WRIT.

Your petitioner requests that a rehearing be granted to him because of the scope and significance of the question presented in this matter. Petitioner has been removed as a fiduciary in the estate of George W. Rentschler, Deceased, by a hearing that was both discriminatory and contrary to the Due Process Clause of the United States Constitution.

1. The action of the Orphans' Court for Philadelphia County in removing your petitioner for reasons totally unrelated to the administration of the estate in question, if the action is sustained, will permit the court below to remove your petitioner, *sua sponte*, from fiduciary positions he now enjoys. Such action is tantamount to disbarment where, as here, your petitioner, after forty-five years of service before the bar, looks to his Orphans' Court practice as his principal source of income.

2. Removal was based on alleged acts for which your petitioner was tried in courts of a foreign jurisdiction. Records not properly before the trial court below were admitted and considered prior to decision. As stated by the Honorable Court in *Schware v. Board of Law Examiners*, 353 U. S. 232:

> "A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. * * *" at 238.

And *Konigsberg v. State Bar of California*, 353 U. S. 252 laid down the rule that, where the evidence in the record does not reasonably support the grounds upon which the judgment or decree was entered, the due process and equal protection clauses of the Fourteenth Amendment were violated.

3. Your petitioner was removed on the grounds that the subject estate was in jeopardy. In fact, the estate had been administered successfully through the individual efforts of your petitioner, including the filing of the account. Since the conduct complained of was not concerned with the administration of the subject estate, the trial court has deprived your petitioner of a substantial property right without due process and equal protection of the laws.

Conclusion.

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that upon such rehearing, a writ of certiorari issue to the Supreme Court of Pennsylvania.

Respectfully submitted,

FRANK F. TRUSCOTT,
Counsel for Petitioner.

CERTIFICATE OF COUNSEL.

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58 of the Rules of this Court.

FRANK F. TRUSCOTT,
Counsel for Petitioner.